COURT'S ORDER WHETHER THE CASE IS OR IS NOT APPROVED FOR REPORTING

{Chapter VIII, Rule 32(2)(b)}

Description of the Case.

CRIMINAL APPEAL NO. 38 of 2002
(Old No. 1611 of 1987)

Virendra Kumar Bhatnagar S/o Sri Daya Swaroop Bhatnagar,
R/o Kasba Dhampur, District Bijnor

.....Appellant

Versus

The State

..... Respondent

Sri Sandeep Tandon, learned counsel for the appellant
Sri Arvind Vashisth, learned counsel for the Respondent/CBI

Approved for reporting.
~~Not approved for reporting~~

Dated: December 28, 2007

(Dharam Veer, J.)

RESERVED JUDGMENT

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

CRIMINAL APPEAL No. 38 of 2002
(Old No. 1611 of 1987)

Virendra Kumar Bhatnagar S/o Sri Daya Swaroop Bhatnagar,
R/o Kasba Dhampur, District Bijnor

.....Appellant

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Dated: December 28, 2007

Sri Sandeep Tandon, learned counsel for the appellant
Sri Arvind Vashisth, learned counsel for the Respondent/CBI

HON. DHARAM VEER, J.

This appeal, preferred under Section 374(2) of Code of Criminal Procedure 1973 (*hereinafter to be referred as Cr.P.C.*), is directed against the judgment and order dated 01.06.1987 passed by Special Judge, Anti Corruption, U.P. (East), Dehradun, in C.B.I. Case No.1/85, CBI Versus V.K. Bhatnagar & another, whereby the learned Special Judge has convicted the appellant under Sections 120-B/420/467/468 r/w Section 471 of The Indian Penal Code, 1860 (*hereinafter to be referred as IPC*). The appellant was further convicted under Section 5(2) r/w Section 5(1)(d) of the Prevention of Corruption Act, 1947 (Act II of 1947). The appellant was awarded sentence of one year's R.I. u/s 420 IPC and to pay fine of Rs.2,000/- and in default of payment of fine, to undergo one month's S.I. The appellant was further awarded sentence of one year's R.I. under each section i.e. u/Ss. 467 and 468 IPC. The appellant was further sentenced to undergo six months R.I. u/s 5(2) r/w Section 5(1)(d) of the Prevention of Corruption Act, 1947 and fine of Rs.1,000/- and in default of payment of fine, to undergo 15 days simple imprisonment. The learned Special Judge also held that since the appellant was punished for

the substantive offences i.e. u/s 420/467/468 IPC, hence there was no need of passing any sentence under Sections 120-B and 471 IPC. All the sentences were also directed to run concurrently.

2. Against the aforesaid judgment and order-dated 01.06.1987, the appellant and co-accused Surendra Singh Bhandari preferred the criminal appeals before High Court of Judicature at Allahabad. The said appeals were dismissed by the Allahabad High Court by a common judgment and order dated 8.11.2000. Against the said judgment and order-dated 8.11.2000, co-accused Surendra Singh Bhandari preferred a criminal appeal No.1127 of 2001 (arising out of SLP (Crl) 2419/2001) before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India vide judgment and order dated 5.11.2001 disposed of the said appeal and remanded the matter to this Court for re-disposal of the same in accordance with law.

3. Criminal Appeal No.39 of 2002 (Old No.1626 of 1987) preferred by co-accused Surendra Singh Bhandari against the same judgment and order dated 01.06.1987 was dismissed being infructuous by the order of this Court on 21.11.2007, as the co-accused Surendra Singh Bhandari served out the sentence of one year imposed by the trial court and also deposited the amount of fine imposed by the trial court.

4. In brief, the prosecution story is that appellant-V.K. Bhatnagar and co-accused Surendra Singh Bhatnagar while posted and functioning as Branch Manager and Messenger respectively at the State Bank of India, Narain Baggar Branch, District Chamoli, entered into a criminal conspiracy with the intention to cheat the State Bank of India, Narain Baggar Branch and in pursuance thereof, appellant got opened a loan account in the bogus name of

Smt. Rama Devi W/o Sri Pratap Singh, R/o Vill. Bhagoti, Tehsil Karanprayag on 3.1.1981 in the SBI, Narain Baggar Branch and on the same day, the appellant sanctioned a loan of Rs.5,000/- in this account for alleged purchase of knitting machine. The said amount of Rs.5,000/- was withdrawn on 3.1.1981 on the basis of a forged withdrawal form in which the signatures of the alleged borrower were forged by co-accused S.S. Bhandari, who also forged the borrower's signatures on the hypothecation agreement, the guarantee agreement and on the control card of the said account. It was also stated that neither any knitting machine was purchased nor did Smt. Rama Devi either apply for or receive any such loan from the said bank. Again on 25.11.1981, an account was opened in the bogus name of Sri Pratap Singh S/o Sri Bhagwan Singh R/o Vill. Meeing for the alleged purchase of a mule and a loan of Rs.3,000/- was sanctioned in this loan account also and co-accused S.S. Bhandari forged the signatures of alleged borrower on the withdrawal form for Rs.3,000/-. It was also stated that neither any such mule was purchased nor the said borrower ever applied for or received any such loan. With the same averments, the FIR was lodged by on 31.1.1984 at 10:15 hours by Tilak Kak, Sudt. of Police, CBI/SPE/Dehradun and the case was registered against the appellant and co-accused Sunder Singh Bhandari u/s 120-B/420/468/471 IPC & u/s 5(2) r/w 5(1)(d) of Prevention of Corruption Act, 1947, the FIR is Ex.Ka-33. The investigation of the case was entrusted of Ram Vir Singh, Inspector, CBI. During the course of investigation, R.K. Bhakta, Inspector CBI/SPE, Dehradun seized the documents from the bank and those documents were given by Sri B.S. Miyan, Cash Officer, SBI, Narain Baggar Branch, Distt. Chamoli on 24.4.1984 and a seizure memo was prepared of those documents, that seizure memo is Ex.Ka-31. Sri

B. Bhattacharya, Chief General Manager granted the sanction for prosecution of the appellant and accused S.S. Bhandari, that sanction is Ex.Ka.27. During the course of the investigation, the signatures and handwritings were sent for testing in the Central Forensic Science Laboratory, New Delhi and Sri V.K. Khanna, Sr. Scientific Officer (Documents) cum Assistant Chemical Examiner to the Government of India submitted a report, that report is Ex.Ka.29. The I.O. during the course of investigation recorded the statements of the witnesses and also took necessary documents in his possession and after competing the investigation, he submitted the charge sheet, that charge sheet is Ex.Ka.32 in the court of Special Judge, Anti Corruption, U.P. (East) Dehradun.

5. On 24.01.1986, the charge was framed against the appellant by Special Judge, Anti Corruption, U.P. (East), Dehradun under Section 120-B I.P.C.; u/s 420 r/w 109 I.P.C.; u/s 471 r/w Sections 468 and 467 I.P.C. and under Section 5(2) r/w Section 5(1)(d) of the Prevention of Corruption Act, 1947 (Act II of 1947). The charge was explained to the appellant who pleaded not guilty and claimed to be tried.

6. To prove its case, the prosecution examined P.W.1 S.C. Ahuja, who was posted as Branch Manager after the transfer of appellant V.K. Bhatnagar from the said bank; P.W.2 is Pratap Singh, in whose name the loan was taken; P.W.3 is Gabbar Singh, who was a guarantor; P.W.4 is Virendra Lal, who was also a guarantor; P.W.5 Narayan Singh, who was Sarpanch of village Sankot and was examined in the court for the identification of Ganeshi Devi; P.W.6 is Balbir Singh, who was the son of Ramo Devi; P.W.7 Chander Singh, who was also a guarantor; P.W.8 B.S. Miyan, Cash Officer S.B.I.; P.W.9 Tejpal, who was posted as

an officer in S.B.I., Branch Narayan Baggar from 1982 to 1984; P.W.10 is B. Bhattacharya, Chief General Manager, State Bank of India, New Delhi who granted the sanction for prosecution of the appellant; P.W.11 is V.K. Khanna, Sr. Scientific Officer, CFSL C.B.I. who has given the report about the handwritings and signatures; P.W.12 is R.K. Bhakta, Inspector CBI/SPE and P.W. 13 is Ram Vir Singh, I.O. of the case.

7. After that the statement of the appellant was recorded u/s 313 Cr.P.C.

8. After hearing learned counsel for the parties and appreciating the entire material available on record, the learned Special Judge, Anti Corruption, U.P. (East), Dehradun vide his judgment and order dated 1.06.1987 convicted the appellant under Sections 120-B/420/467/468 r/w Section 471 of I.P.C. The appellant was further convicted under Section 5(2) r/w Section 5(1)(d) of the Prevention of Corruption Act, 1947 (Act II of 1947). The appellant was awarded sentence of one year's R.I. u/s 420 IPC and to pay fine of Rs.2,000/- and in default of payment of fine, to undergo one months' simple S.I. The appellant was further awarded sentence of one year's R.I. under each section i.e. u/Ss. 467 and 468 IPC. The appellant was further sentenced to undergo six months R.I. u/s 5(2) r/w Section 5(1)(d) of the Prevention of Corruption Act, 1947 and fine of Rs.1,000/- and in default of payment of fine, to undergo 15 days simple imprisonment. The learned Special Judge also held that since the appellant was punished for the substantive offences i.e. u/s 420/467/468 IPC, hence there was no need of passing any sentence under Sections 120-B and 471 IPC. All the sentences were directed to run concurrently. Feeling aggrieved by the aforesaid judgment

and order dated 01.06.1987, the appellant has come up in appeal.

9. I have heard Sri Sandeep Tandon, learned counsel for the appellant and Sri Arvind Vashistha, learned counsel for C.B.I./respondent and perused the entire material available on record.

10. The prosecution, in order to prove its case, examined P.W.1 S.C. Ahuja, who has stated in his statement that in March 1983, he took the charge as Branch Manager of Narayan Baggar Branch from Sri V.K. Bhatnagar. Appellant V.K. Bhatnagar was posted as Branch Manager S.B.I. Narayan Baggar from 1981 to March 1983. Accused Surendra Singh Bhandari was posted as peon in Narayan Baggar branch, S.B.I. He has further stated that an applicant has to fulfill the application form for taking the loan and after that the genuineness of that case is enquired by the Branch Manager. He further stated that before sanctioning the loan, the Branch Manager has to inquire the matter himself and if any field officer is posted in that branch, then Branch Manager also has to see the genuine need or economic viability of the applicant. After considering all the facts when the Branch Manager is satisfied, then he would sanction the loan and before that, he also has to get the documentation done from the applicant. Under the Differential Interest Rate Scheme (D.I.R.), the interest rate was lesser than other loans and in that scheme, three photographs of the borrower were used to be taken and in the present case both the loans were under the D.I.R. scheme. He has further stated that the money for the knitting machine and the cattle purchase could be given to the supplier through cheque or could also be paid to the borrower directly. After sanctioning the loan, the Branch Manager used to inspect whether the work was done for

which the loan was taken or not? He has further stated that he had seen the appellant V.K. Bhatnagar and accused S.S. Bhandari while reading and writing and he is well known with their signatures and handwriting. He has further stated that when he had taken the charge from the appellant of the S.B.I. Narayan Baggar Branch, at that time in the loan file of Pratap Singh and Rama Devi, there was no quotation, advance bill or insurance cover note. He has further stated that on paper no. 19-A, body writing Q-20-A which is rounded by Q-42, Q-43 and Q-44 was in the handwriting of appellant V.K. Bhatnagar, that was marked as Ex.Ka.1 and Ex.Ka.2. On paper no.20-A, the signature rounded by Q-45 is of appellant V.K. Bhatnagar and that was marked as Ex.Ka.2/1. On paper no. 19-A, the writing rounded by Q-1 and on paper no. 20-A, the writing rounded by Q-2 was written by S.S. Bhandari, that was marked as Ex.Ka.1/1 and Ka.2/2 respectively. On paper no. 21-A, the writing and signature rounded by Q-46 is the signature of appellant V.K. Bhatnagar. On the photograph of Rama Devi, the appellant V.K. Bhatnagar has signed on the side of the photograph for verification. On paper no.21-A, the writing rounded by Q-3 and Q-4 was written by accused Surendra Singh Bhandari. The writing rounded by Q-46 was marked as Ex.Ka.3 and the writing rounded by Q-3 and Q-4 was marked as Ex.Ka.3/1. On paper no.22-A, the writing rounded by Q-48 and Q-47 was written by appellant V.K. Bhatnagar and that was marked as Ex.Ka.4. Papers no.23-A/1 and 23-A/2 is the hypothecation agreement letter relating to loan of Rama Devi and on those documents, the writing rounded by Q-44 and Q-49 is the writing of appellant V.K. Bhatnagar and that was marked as Ex.Ka.7. On this document, the signature of Rama Devi, which was rounded by Q-5 to Q-8, was made by Surendra Singh Bhandari and that was marked as Ex.Ka.7/1 to Ex.Ka.7/4. Paper no.24-A/1 to 24-A/3 is the

guarantee agreement relating to loan of Rama Devi and on those letters, the writing rounded by Q-50 and Q-51 was written by appellant V.K. Bhatnagar and that was marked as Ex.Ka.8 and Ex.Ka.8/1. Paper no.25-A is the Revival Letter relating to loan of Rama Devi and on that paper, the writing rounded by Q-9 i.e. signatures of Rama Devi, was made by Surendra Singh Bhandari and that was marked as Ex.Ka.9. Paper no.26-A is the Drawal Form relating to D.I.R. account of Rama Devi. He has also stated that by this form, the money is being withdrawn. On that paper, the writing rounded by Q-53, was written by appellant V.K. Bhatnagar and the writing i.e. signature of Rama Devi which was founded by Q-10, Q- 11 and Q-12 was made by Surendra Singh Bhandari. These documents were marked as Ex.Ka.10, Ex.Ka.10/1 and Ex.Ka.10/2. He has also stated that by this withdrawal form the person, who has made the signatures of Rama Devi, has withdrawn the money. Paper no.27-A, is the Pass Book which was issued relating to loan of Rama Devi. On that paper, the writing rounded by Q-41 and Q-40/1 and the signatures rounded by Q-40 were made by appellant V.K. Bhatnagar, that were marked as Ex.Ka.11, Ex.Ka.11/1 and Ex.Ka.11/2. On the passbook of loan account No.844 of Rama Devi, the photo of Ganeshi Devi is clearly visible. The S.B. account of Ganeshi Devi was opened by the signatures of Sri Murari Lal Uniyal, who was branch manager at that time. He has also identified the signature of Sri Uniyal, that was marked as Ex.Ka-12. This account of Ganeshi Devi was opened as joint account along with her husband Trilok Singh and on this document, thumb impression of right hand of Ganesh Devi is there. On paper Nos.28-A to 40-A, the writing rounded by Q-13 to Q-25 is the handwriting of Surendra Singh Bhandari and all these papers are pay-in-slips by which the money was deposited in the loan account of Rama Devi, those documents were

marked as Ex.Ka-13/1 to Ex.Ka-13/13. On the same documents, the writing rounded by Q-56, Q-61 and Q-62 is the writing of appellant V.K. Bhatnagar. Paper No. 41-A/2 is the specimen card relating to Saving Account No.844 and on this document also, the signature of Sri Uniyal is there and the thumb impression of Ganeshi and signature of Trilok Chand is also there. Paper No. 42-A is the loan application in the name of Pratap Singh in which the purchase of mule has been shown under the DIR Scheme. On this document, the writing rounded by Q-63 and signatures rounded by Q-64 were made by appellant V.K. Bhatnagar, that document was marked as Ex.Ka-14. The signature which is rounded by Q-26 i.e. of Pratap Singh, was done by Surendra Singh Bhandari. Paper No.43-A is the arrangement letter card relating to loan of Pratap Singh and on this document, the writing rounded by Q-65 and signature rounded by Q-66 is of appellant V.K. Bhatnagar, that document was marked as Ex.Ka.-15 and Ex.Ka.-15/1. On the same letter, the writing rounded by Q-27 was written by Surendra Singh Bhandari, that was marked as Ex.Ka-15/2. Paper No.44-A is the Control Card relating to Agricultural Term Loan A/c No.246 of Pratap Singh. On this document, the writing rounded by Q-67 was written by appellant V.K. Bhatnagar. Specimen Signatures rounded by Q-28 and Q-29 was made by Surendra Singh Bhandari and these forged signatures were verified by appellant V.K. Bhatnagar, that was marked as Ex.Ka-16 and Ex.Ka-16/1 Paper Nos.45/A/1 to 45/A/3 is the agreement for hypothecation relating to loan of Pratap Singh. On this letter, the writing rounded by Q-70, Q-71 and Q-72 was the writing of appellant V.K. Bhatnagar and these were marked as Ex.Ka-17/1 to Ex.Ka-17/3. On this document, the signatures rounded by Q-30, Q-31 and Q-32 to Q-35 of Pratap Singh were made by Surendra Singh Bhandari, those were marked as Ex.Ka-17/4 to Ex.Ka.17/9.

Paper Nos. 46-A/1 to 46-A/3 is the guarantee agreement relating to loan of Pratap Singh. On those documents, the writing rounded by Q-73 and Q-74 was written by appellant V.K. Bhatnagar, that was marked as Ex.Ka-18 to Ex.Ka.-18/1. Paper No.46-A is the withdrawal form relating to loan account of Pratap Singh. On this document, the signatures rounded by Q-36 and Q-37 i.e. of Pratap Singh for receiving of amount was made by Surendra Singh Bhandari. This withdrawal was allowed by appellant V.K. Bhatnagar and the handwriting and signature rounded by Q-75 was made by appellant V.K. Bhatnagar, that paper was marked as Ex.Ka-19. The signatures rounded by Q-36 and Q-37 was written by Surendra Singh Bhandari and that was marked as Ex.Ka-19/1. He has also stated that after receiving the money, Surendra Singh Bhandari has forged the signatures of Pratap Singh and the payment was made by appellant V.K. Bhatnagar. Paper No.48-A is the Account Sheet relating to account of Pratap Singh in which the description has been given with regard to withdrawal of loan and depositing of installments. On this document, the writing rounded by Q-68 and Q-69 was written by appellant V.K. Bhatnagar and that was marked as Ex.Ka.20. On 25.11.1981, the payment was made on the name of Pratap Singh from the writing rounded by Q-69. Paper No.49-A is the passbook relating to account No.246 of Pratap Singh. On this book, the writing rounded by Q-77 and inside this book, the writing rounded by Q-78/1, was written by appellant V.K. Bhatnagar and that was marked as Ex.Ka-21 and Ex.Ka-21/1. On this document, the photograph affixed was of Pratap Singh, brother of Surendra Singh Bhandari and on this document, the writing rounded by Q-78 was verified by appellant V.K. Bhatnagar and was in his handwriting, that was marked as Ex.Ka-21/2. On Pay-in-slips i.e. Paper Nos.50-A and 51-A, the writing rounded by Q-38 and Q-39 was the writing of Surendra Singh Bhandari. By these slips, the amount was

deposited in the loan amount of Pratap Singh, those slips were marked as Ex.Ka-22/1 and Ex.Ka-22/2. Papers No.52-A/1 to No.52-A/4 are the leave applications written by Surendra Singh Bhandari, they were marked as Ex.Ka-23/1 to Ex.Ka-23/4. He has also stated that with regard to this cae, I.O. Ram Vir Singh had taken the specimen signatures of Surendra Singh Bhandari before him which are Paper Nos.53/A-7 to 53-A/12, these papers were marked as Ex.Ka-24/1 to Ex.Ka-24/6. He has also stated that I.O. Ram Vir Singh had also taken the signatures of appellant V.K. Bhatnagar with regard to this case before him which are from Paper No.54-A/1 to Paper No.54-A/8. He has also identified the signatures of appellant V.K. Bhatnagar and these documents were marked as Ex.Ka-25/1 to Ex.Ka-25/8. He has further stated that the loan under the DIR Scheme is given to those persons who are below the poverty line and the interest at the rate of 4% per annum only is taken from those persons. This witness was cross-examined at length by the defence counsel but nothing has come out in his evidence which may create any doubt in his evidence. The evidence of this witness is reliable, believable and trustworthy.

11. P.W.2 is Pratap Singh S/o Udai Singh who has stated that he has never gone to State Bank of India, Narain Baggar Branch and has also never given any application for grant of loan. He has also stated that in his village Ming, there is no person namely Pratap Singh S/o Bhawan Singh. He has further stated that he has not signed on paper No.44-A and in other connected papers of the loan. This witness was also cross-examined by the defence counsel but nothing has come out in his evidence which may create any doubt in his evidence. The evidence of this witness is also reliable, believable and trustworthy.

12. P.W.3 is Gabbar Singh who has stated that he is having a wooden shop about 2 furlongs from State Bank of India, Narain Baggar branch and appellant V.K. Bhatnagar and accused Surendra Singh Bhandari were known to him. The paper Nos.23-A/1, 23-A/2 and 24-A/1 to 24-A/3 were shown to him and after seeing this papers, he has stated that the signatures rounded by Q-99 to Q-107 is his signatures and they were marked as Ex.Ka-5/1 to Ex.Ka-5/9. He has also stated that he had signed on these papers on the direction of appellant V.K. Bhatnagar and at the time of signatures, the papers were blank. Accused Surendra Singh had come to his shop along with forms and has asked him to sign on those papers as a witness. He had refused him (Surendra Singh) to sign on those forms and he told him that he would come in the bank and enquire the matter from the appellant V.K. Bhatnagar. After that he gone to the bank and then the appellant V.K. Bhatnagar told him that Surendra Singh is taking a loan and asked him to sign on those forms. This witness was also cross-examined at length by the defence counsel but nothing has come out in his evidence which may create any doubt in his evidence. The evidence of this witness is also reliable, believable and trustworthy.

13. P.W.4 is Virendra Lal who has stated that he was having a shop near the State Bank, Branch Narain Baggar since 1976 and earlier he was retired from the job of army. Appellant V.K. Bhatnagar and accused Surendra Singh were known to him and he had signed on papers No.23/A-1, 23/A-2, 24/A-1, 24/A-2 and 24/A-3. Accused Surendra Singh came to him along with these papers and told him that a person well known to him is taking the loan and had requested him for his signature and had also told him that appellant V.K. Bhatnagar had told him to get his signature. After that he had gone to the bank along with accused

Surendra Singh where appellant V.K. Bhatnagar met him and told him to sign on those papers and on the assurance of appellant V.K. Bhatnagar, he had signed on those papers. These papers were marked as Exs.Ka-5/A, 5/B, 5/C, 5/D, 5/E, 5/F, 5/G, 5/H and 5/I. The papers were blank at the time when he had signed on them. After some days, accused Surendra Singh again came to him and on the assurance of appellant V.K. Bhatnagar and accused Surendra Singh, he had signed on paper Nos.46-A/1, 46-A/2 and 46-A/3 and at that time, the papers were blank and he also identified those papers and these papers were marked as Exs.Ka-6/1, 6/2, 6/3, 6/4, and 6/5. After that he came to know that accused Surendra Singh Bhandari has taken a loan in the name of Pratap Singh by forgery. This witness was also cross-examined at length by the defence counsel but nothing has come out in his evidence which may create any doubt in his evidence. The evidence of this witness also is reliable, believable and trustworthy.

14. P.W.5 is Narayan Singh who has stated that he is the Sarpanch of Village Sankot and Trilok Singh is the resident of his village and the name of wife of Trilok Singh is Ganeshi Devi and both of them were well known to him. The photos which were affixed on paper Nos.41-A/1 and 41-A/2 were the photos of Smt. Ganeshi Devi and the photo which was fixed on Paper Nos.21-A and 27-A, were also of Ganeshi Devi. This witness was also cross-examined at length by the defence counsel but nothing has come out in his evidence which may create any doubt in his evidence. The evidence of this witness is also reliable, believable and trustworthy.

15. P.W.6 is Balbir Singh who has stated that the name of his mother is Rama Devi He has stated that in his village with the name of Rama Devi wife of Pratap Singh, no

other lady is living except his mother and his mother is 80 to 82 years old and she used to apply thumb impression, as she is illiterate. His mother has never taken any loan from SBI Narain Baggar Branch. He has further stated that signatures on Paper Nos.19-A to 21-A, 23-A/1, 23-A/2, 25/A and 26/A could not be the signatures of his mother and the photo which was affixed on Paper Nos.21-A and 27/A is also not the photo of his mother. He has further stated that his mother is not in a condition to move or walk. This witness was cross-examined by the defence counsel but nothing has come out in his evidence which may create any doubt in his evidence. The evidence of this witness is also reliable, believable and trustworthy.

16. P.W.7 is Chandar Singh who has stated that in the year 1981, he had a teashop in front of SBI Narayan Baggar branch and appellant V.K. Bhatnagar was known to him. He used to serve the tea in the bank and accused Surendra Singh Bhandari also used to come in his shop for taking tea. He has further stated that signatures on Paper Nos.46-A/1, 46-A/2 and 46-A/3 which were rounded by Q-93 to Q-98 is his signatures. He has also stated that accused Surendra Singh had come to his shop and had requested him to sign on those papers and he had told him that he (Surendra Singh) was taking the loan from the bank and at that time, the papers were blank. He has further stated that the photo which was affixed on Paper No.49-A is the photo of Pratap Singh, brother of accused Surendra Singh. This witness was also cross-examined at length by the defence counsel but nothing has come out in his evidence which may create any doubt in his evidence. The evidence of this witness is also reliable, believable and trustworthy.

17. P.W.8 is B.S. Miyan, Cash Officer, State Bank of India, who has stated that on 22.2.1983, he joined as Cash Officer in SBI, Narain Baggar branch and appellant V.K. Bhatnagar was the branch manager at that time and accused Surendra Singh Bhandari was posted as Messenger. He has identified the signatures and handwriting of appellant V.K. Bhatnagar and accused Surendra Singh Bhandari. He has further stated that the writing rounded by Ex.Ka-1 and Ex.Ka-2 and the signatures rounded by Ex.Ka-2/1 was of appellant V.K. Bhatnagar. He has further stated that signature rounded by Ex.Ka-1/1 and Ex.Ka-2/2 i.e. of Rama Devi, was the fake signatures made by Surendra Singh. He has further stated that it was essential to get the photo of the borrower in the loan account and the purpose of taking the photo was for the identification of borrower. He has further stated that the handwriting as well as signatures on Ex.Ka-3, Ex.Ka-4, Ex.Ka7 and Ex.Ka-8 was of appellant V.K. Bhatnagar. Likewise, on Ex.Ka-3/1, Ex.Ka-7/1 to Ex.Ka-7/4, the handwriting was of accused Surendra Singh Bhandari. Ex.Ka9, Ex.Ka-10/1 and Ex.Ka-10/2 were also written in the handwriting of accused Surendra Singh Bhandari. Ex.Ka-10 i.e. withdrawal form was filled up by the appellant V.K. Bhatnagar and was also passed by him. Ex.Ka-10/2 is the receipt of Rs.5,000/-, on this receipt the signature of Rama Devi was made by accused Surendra Singh Bhandari. The photo which was affixed on Ex.Ka-11/2 and Ex.Ka.-3, that photo is the photo of Smt. Ganeshi Devi of Account No.844 and the said photo which is affixed on Ex.Ka-11/2 and Ex.Ka-3 is not the photo of Rama Devi. The handwriting as well as signatures on Ex.Ka-14, Ex.Ka-15, Ex.Ka-15/1, Ex.Ka-16, Ex.Ka-17/1 to Ex.Ka-17/3, Ex.Ka-18, Ex.Ka-18/1, Ex.Ka-19, Ex.Ka-20, Ex.Ka-21 and Ex.Ka-21/2 was made by appellant V.K. Bhatnagar. The handwriting on

Ex.Ka.14/1, Ex.Ka-15/2, Ex.Ka-16/1, Ex.Ka-17/4 to Ex.Ka-17/9 and Ex.Ka-19/1 i.e. signatures of Pratap Singh, is in the handwriting of accused Surendra Singh Bhandari. Accused Surendra Singh Bhandari and the person whose photo was affixed on Ex.Ka-2 pass book, they are brothers. He has further submitted that the bank cannot advance a loan outside of its area under the DIR Scheme. This witness was also cross-examined at length by the defence counsel but nothing has come out in his evidence which may create any doubt in his evidence. The evidence of this witness is also reliable, believable and trustworthy.

18. P.W.9 is Tej Pal who has stated in his statement that he was posted from 1982-84 in SBI, Narayan Baggar branch as an Officer. He has further stated that he is well known with the signatures and handwriting of appellant V.K. Bhatnagar and co-accused Surendra Singh Bhandari. He has further stated that from the side of the bank, he had investigated the matter with regard to loan of Rama Devi and Pratap Singh. He has further stated that Surendra Singh Bhandari has given a written statement i.e. Paper No.89-A and that paper was marked as Ex.Ka-26. This witness was also cross-examined at length by the defence counsel but nothing has come out in his evidence which may create any doubt in his evidence. The evidence of this witness is also reliable, believable and trustworthy.

19. P.W.10 is B.Bhattacharya, Chief General Manager, State Bank of India, New Delhi who has stated that he is the General Manager of the State Bank of India, New Delhi Circle since 17.7.1983. Appellant V.K. Bhatnagar was the Branch Manager of Narain Baggar Branch of State Bank of India and co-accused Surendra Singh Bhandari was a class four employee of the same branch. He has further stated that he was the disciplinary authority for the Branch

Manager and he was the highest disciplinary authority in the capacity as Chief General Manager. He has further stated that Paper No.6/1 to 6/3 was the sanction accorded by him for prosecution of appellant V.K. Bhatnagar and accused S.S. Bhandari and he has also proved his signature on this sanction, that sanction is Ex.Ka-27. He has also stated that before granting the sanction, he had perused the entire record of the case.

20. P.W.11 is V.K. Khanna, Sr. Scientific Officer, who has stated that he was working as Senior Scientific Officer in Central Forensic Science Laboratory, Central Bureau of Investigation, New Delhi since November, 1973. Before joining service, he did M.Sc. degree in Chemistry from Rajasthan University and he took this degree in the year 1969. He had received his training in all types of problems relating to questioned documents under Sri R.P. Singh, the then Government Examiner of questioned documents Intelligence Bureau Calcutta, for about 3 years while working in service. Similarly, he also received training under Sri S.K. Sharma, Govt. Examiner of Questioned Documents, I.B. Head Quarters, New Delhi. He had expressed opinions in several reports in about 1400 cases independently involving thousands of documents and appeared in different courts of the country and gave expert evidence in about 450 courts. He further stated that documents in the present case had been sent by the then S.P. CBI, Dehradun, Sri Tilak Kak vide letter dated 12.6.1984 to CFSL, New Delhi for expert opinion on the disputed documents marked as Ex.Ka-28. On the receipt of documents in CFSL, the same were entrusted to him for examination. He had carefully examined three documents. The questioned documents were marked as “Q” series, sample writings as “S” series and admitted writing on “A” series. The documents were examined by him with the help of scientific aids and he gave the following opinions:-

A. *Opinion No.1*- The handwriting evidence points to the writer of specimen Hindi writings, signatures and English signatures marked S-1 to S-6 on paper nos. 53-A/1 to 53-A/6, S-7 to S-12 on Ex.Ka-24/1 to Ex.24/6 and A-1 to A-4 on Ex.Ka-23/1 to 23/4 being the person responsible for writing the questioned Hindi signatures "**Rama Devi**" marked Q-1 Ex.Ka-1/1, Q-2 Ex.Ka-2/2, Q-3 and Q-4 Ex.Ka-3/1, Q-5 to Q-8 Ex.Ka-7/1 to Ex.Ka-7/4, Q-9 Ex.Ka-9, Q-10 Ex.Ka-10/1, Q-11 & Q-12, Ex.Ka.10/2 and Q-13 Ex.Ka-13/1, Hindi signatures "**Pratap Singh**" marked Q-26 Ex.Ka-14/1, Q-27 Ex.Ka-15/2, Q-28 and Q-29 Ex.Ka-16/1, Q-30 Ex.Ka-17/4, Q-31 Ex.Ka-17/5, Q-32 Ex.Ka-17/6, Q-33 Ex.Ka.17/7, Q-34 and Q-35, Ex.Ka-17/8 and 17/9 respectively, Q-36 and Q-37, Ex.Ka-19/1 and Hindi writings and English signatures marked Q-14 to Q-25 Exts.Ka-13/2 to 13/13, and Q-38 Ex.Ka.22/1, Q-39 Ex.Ka.22/2. The detailed reasons for this opinion he has given in his report.

B. Opinion No.2- Handwriting evidence points to the writer of the specimen English writings and signatures marked S-13 to S-18 Ex.Ka-25/1 to Ex.Ka-25/6, S-19 to S-33 on Ext. Ka-25/7 being the person responsible for writing the questioned English writings and signatures marked Q-40 Ex.Ka-11/2, Q-40/1 Ex.Ka-11/1, Q-41 Ex.Ka-11, Q-42 and Q-43 Ex.Ka-1, Q-44 Ex.Ka-2, Q-45 Ex.Ka-2/1, Q-46 Ex.Ka-3, Q-47 and Q-48 Ex.Ka-4, Q-49 Ex.Ka-7, Q-50 Ex.Ka-8, Q-51 Ex.Ka-8/1, Q-53 Ex.Ka-10, Q-56 on paper No.33/A, Q-61 on paper No.39-A, Q-62 on paper No. 40-A, Q-63 and Q-64 Ex.Ka-14, Q-65 Ext.Ka-15, Q-66 Ex.Ka.15/1, Q-67 Ex.Ka-16, Q-68 and Q-69 Ex.Ka-20, Q-70 Ex.Ka-

17/1, Q-71 Ex.Ka-17/2, Q-72 Ex.Ka-17/3, Q-73 Ex.Ka-18, Q-74 Ex.Ka-18/1, Q-75 Ex.Ka-19, Q-77 Ex.Ka-21, Q-78 Ex.Ka-21/2 and Q-78/1 Ex.Ka-21/1. The detailed reasons for this opinion he has given in his report paper No.55-A/1 to 55-A/7.

C. Opinion No.3- Handwriting evidence points to the writer of the specimen Hindi signatures marked S-56 to S-75 being the person responsible for writing the questioned Hindi signatures marked Q-93 to Q-98 available on paper No.46-A/1 to 46-A/3. The detailed reasons for this opinion he has given in his report.

D. Opinion No.4- Handwriting evidence points to the writer of specimen Hindi signatures marked S- 73 to S-86 being the person responsible for writing the questioned Hindi signatures marked Q-99 to Q-107 marked as Exts.Ka-5/1 to Ka-5/9. The detailed reasons for this opinion he has also given in his report paper no.55-A.

E. Opinion No.5- There are certain similarities between the specimen signatures marked S-35 to S-55 and the questioned signatures marked Q-79 to Q-92 and Q-86/1 which give grounds for suspecting that the writer of the specimen signatures being the person responsible for writing the questioned English signatures. The opinion and detailed reasons thereof he has given in his report paper No.55 which extends over seven pages. This entire report had been typed on his dictation in his laboratories and it also bears his signatures on every page and is correct and that was marked as Ex.Ka-29.

21. P.W.12 is Sri R.K. Bhakta, Dy. S.P. CIPU, CBI, New Delhi who has stated that he was posted as Inspector in CBI from September, 1976 to 4.2.1985. He had taken the specimen signatures of accused Surendra Singh Bhandari i.e. Paper No.53-A/1 to 53-A/6 which are rounded by S-1 to S-6. He and V.S. Miyan have also signed on those papers and that was marked as Ex.Ka-30/1 to Ex.Ka-30/6. On 24.4.1984, he also seized the documents taken from B.S. Miyan. The seizure paper No.56-A is in two pages and he and B.S. Miyan have also signed on the same, which was marked as Ex.Ka-31.

22. P.W.13 is Sri Ram Veer Singh, Inspector CBI who has stated that in 1984 he was posted as Inspector CBI, Dehradun. After registration of the FIR, the investigation of the case was entrusted to him. During the course of the investigation, he recorded the statements of the witnesses. The specimen signatures of accused Surendra Singh Bhandari i.e. from Ex.Ka-24/1 to Ex.Ka-24/6 was taken by him and he also signed on it. The specimen signature of appellant V.K. Bhatnagar was also taken by him, i.e. from Ex.Ka.25/1 to Ex.Ka-25/8 and he also signed on these papers. The specimen handwriting of Virendra Lal was taken by him on 11.4.1984 and the specimen signatures of Chandra Singh and Gabbar Singh were also taken by him on 5.6.1984. During the investigation, he came to the conclusion that there is no such person with the name of Pratap Singh S/o Bhawan Singh in the Village Meeing. The photo affixed on the passbook of the Pratap Singh on Paper No.49-A is the photo of Pratap Singh, the brother of accused Surendra Singh Bhandari. He also came to the conclusion that photo of Ganeshi Devi was affixed in place of Rama Devi. The signatures and handwriting of the concerned documents were sent for the handwriting expert in CFSL, New Delhi. The sanction was also taken by him from the

Chief General Manager i.e. Ex.Ka-27. After completing the investigation, he submitted the charge sheet in the court, i.e. Ex.Ka-32. He has also proved the FIR i.e. Ex.Ka-33.

23. After that the statement of the appellant V.K. Bhatnagar was recorded u/s 313 Cr.P.C. In reply to Question No.1, he has admitted that in the year 1981, he was posted as Branch Manager of State Bank of India, Narayan Baggar branch and has also admitted in reply to question no.2 that accused Surendra Singh Bhandari was also posted in that branch in the aforesaid period. In reply to question no.5, he has stated that the documents for taking the loan of Rama Devi were in his handwriting and they were also written by him. In reply to Question No.7, he has stated that he has verified the forged signatures of Rama Devi made by accused Surendra Singh Bhandari presuming it to be correct. In reply to question no.10, he has stated that the loan of Rs.5,000/- was sanctioned by him to Rama Devi. In reply to Question No.12, he has stated that loans to Pratap Singh and Rama Devi was sanctioned by him under the DIR Scheme. In reply to question no.14, he has admitted that the documents for the loan of Pratap Singh were written by him. In reply to Question No.15, he has stated that signature of Pratap Singh was verified by him presuming it to be correct. In reply to Question No. 17, he has admitted that the payment of loan to Pratap Singh was sanctioned by him. In reply to question no.26, he has stated that in the bank whatever he has done, he has done as per the rules and the loan was sanctioned and was given to Rama Devi and Pratap Singh on the assurance of Surendra Singh Bhandari. Accused Surendra Singh Bhandari had told him that Pratap Singh is his brother and Rama Devi is his sister in law (Bhabhi) and he also considered the fact the Surendra Singh Bhandari was the old employee of the bank.

24. Sri Sandeep Tandon, learned counsel for the appellant submitted that the appellant has not committed any forgery or cheating or criminal breach of trust with the bank and whatever the appellant has done, he has done in the good faith. This argument advanced by learned counsel for the appellant is not as per the evidence discussed above. From the evidence discussed above, it is proved that appellant V.K. Bhatnagar, who was a branch manager at that time in the year 1981 in the bank, on 3.1.1981, he had prepared the false documents namely Loan application under Differential Interest Rate Scheme i.e. paper No. 19-A, arrangement letter i.e. paper No.20-A, control card i.e. paper No.21-A, DIR advance account sheet i.e. paper no.22-A, hypothecation agreement i.e. paper no.23-A/1 to 23-A/2 and the letter of guarantee i.e. paper No.24-A/1 to 24-A/3 for taking the loan of Rama Devi and on those documents, co-accused Surendra Singh Bhandari had also signed by forging the signatures of Rama Devi and two witnesses namely P.W.3 Gabbar Singh and P.W.4 Virendra Lal have also signed as guarantors. This fact is also corroborated from the evidence of P.W.1 S.C. Ahuja. The appellant V.K. Bhatnagar without enquiring the fact whether the Rama Devi wife of Pratap Singh, who have applied for the loan is a genuine lady or not, sanctioned an amount of Rs.5,000/- even knowing the fact that accused Surendra Singh Bhandari have fabricated the false documents in the name of Rama Devi and those documents were also signed by accused Surendra Singh Bhandari by forging the signatures of Rama Devi. Further, on the assurance of appellant V.K. Bhatnagar and accused Surendra Singh Bhandari, the witnesses P.W. 3 Gabbar Singh and P.W.4 Virendra Lal have signed on the blank papers. This fact is also supported from the evidence of P.W.3 Gabbar Singh who has stated in his evidence that the paper Nos.23-A/1, 23-A/2 and 24-A/1 to

24-A/3 were shown to him and after seeing this papers, he has stated that the signatures rounded by Q-99 to Q-107 is his signatures and they were marked as Ex.Ka-5/1 to Ex.Ka-5/9. He has also stated that he had signed on these papers on the direction of appellant V.K. Bhatnagar and at the time of signatures, the papers were blank. He further stated that accused Surendra Singh had come to his shop along with forms and has asked him to sign on those papers as a witness. He had refused him (Surendra Singh) to sign on those forms and he told him that he would come in the bank and enquire the matter from the appellant V.K. Bhatnagar. After that he gone to the bank and then the appellant V.K. Bhatnagar told him that Surendra Singh is taking a loan and asked him to sign on those forms. P.W.4 is Virendra Lal who has stated in his evidence that appellant V.K. Bhatnagar and accused Surendra Singh were known to him and he had signed on papers No.23/A-1, 23/A-2, 24/A-1, 24/A-2 and 24/A-3. He further stated that accused Surendra Singh came to him along with these papers and told him that a person well known to him is taking the loan and had requested him for his signature and had also told him that appellant V.K. Bhatnagar had told him to get his signature. After that he had gone to the bank along with Surendra Singh where appellant V.K. Bhatnagar met him and told him to sign on those papers and on the assurance of appellant V.K. Bhatnagar, he had signed on those papers. These papers were marked as Exs.Ka-5/A, 5/B, 5/C, 5/D, 5/E, 5/F, 5/G 5/H and 5/I. He has also stated that the papers were blank at the time when he had signed on them. In the statement recorded u/s 313 Cr.P.C., the appellant V.K. Bhatnagar has admitted that he had prepared the forged papers and he had sanctioned that loan and the money was released by his signatures. P.W.6 Balbir Singh was also examined in the court and he has stated in his

evidence that Rama Devi is his mother. He has also stated that in his village with the name of Rama Devi wife of Pratap Singh, no other lady is living except his mother and his mother is 80 to 82 years old and she used to apply thumb impression, as she is illiterate. He has further stated that his mother had never taken any loan from SBI Narain Baggar Branch. He has further stated that signatures on Paper Nos. 19-A to 21-A, 23-A/1, 23-A/2, 25/A and 26/A could not be the signatures of his mother and the photo which was affixed on Paper Nos.21-A and 27/A is also not the photo of his mother. He has further stated that his mother is not in a condition to move or walk. This fact is also corroborated from the evidence of P.W.5 Narain Singh who has stated in his evidence that the photo which was affixed on paper Nos.41-A/1 and 41-A/2 were the photos of Ganeshi Devi and the photo which was fixed on Paper Nos. 21-A and 27-A are also of Ganeshi Devi (who was another account holder in the bank). Thus, from the evidence of P.W.1 S.C. Ahuja, P.W.3 Gabbar Singh, P.W.4 Virendra Lal, P.W.5 Narain Singh and P.W.6 Balbir Singh S/o Rama Devi and also from the scientific report Ex.Ka-29, it has been proved by the prosecution beyond reasonable doubt that the appellant intentionally committed criminal breach of trust by cheating the bank and fabricated false documents in the fake name of Rama Devi and had taken the guarantee of two persons on the blank papers assuring them that the loan will be repaid and defrauded the bank by putting it to a loss of Rs. 5,000/-.

25. Almost similar are the circumstances pertaining to the other loan transaction sanctioned in the name of Pratap Singh. The said loan was sanctioned by the appellant V.K. Bhatnagar in the name of Pratap Singh S/o Bhawan Singh R/o Village Meeing. On 25.11.1981, he had prepared the false documents namely Loan application under

Differential Interest Rate Scheme i.e. paper No.42-A, arrangement letter i.e. paper No.43-A, control card i.e. paper No.44-A, DIR advance account sheet i.e. paper no.48-A, hypothecation agreement i.e. paper no.45-A/1 to 45-A/3 and the letter of guarantee i.e. paper No.46-A to 46-A/3, for taking the fake loan of Pratap Singh and on those documents, co-accused Surendra Singh Bhandari had also signed by forging the signatures of Pratap Singh and two witnesses namely P.W.4 Virendra Lal and P.W.7 Chander Singh have also signed as guarantors in the guarantee agreement. This fact is also corroborated from the evidence of P.W.1 S.O. Ahuja. P.W.2 is Pratap Singh S/o Udai Singh, who has stated in his evidence that he has never gone to State Bank of India, Narain Baggar Branch and has also never given any application for grant of loan. He has also stated that in his village Ming, there is no person namely Pratap Singh S/o Bhawan Singh. He has further stated that he has not signed on paper no.44-A and in other connected papers of the loan. P.W.4 Virendra Lal has also stated in his evidence that accused Surendra Singh had come to him and on the assurance of appellant V.K. Bhatnagar and Surendra Singh, he had signed on paper Nos.46-A/1, 46-A/2 and 46-A/3 and at that time, the papers were blank and he has also identified those papers and those papers were marked as Exs.Ka-6/1, 6/2, 6/3, 6/4 and 6/5. After that he came to know that accused Surendra Singh Bhandari has taken a loan in the name of Pratap Singh by forgery. P.W.7 is Chander Singh who has stated in his evidence that he is a tea vendor and his shop is situated in the close vicinity of the State Bank of India, Narain Baggar branch. He has further stated that signatures on Paper Nos.46-A/1, 46-A/2 and 46-A/3 which were rounded by Q-93 to Q-98 is his signatures. He has also stated that accused Surendra Singh had come to his shop and had requested him to sign on

those papers and he had told him that he (Surendra Singh) was taking the loan from the bank and at that time, the papers were blank. He has further stated that the photo which was affixed on Paper No.49-A is the photo of Pratap Singh, brother of accused Surendra Singh Bhandari. The above said facts are also supported from the scientific report Ex.Ka-29 given by Senior Scientific Officer (Documents) cum Assistant Chemical Examiner to the Govt. of India. Thus, from the evidence of P.W.1 S.C. Ahuja, P.W.2 Pratap Singh, P.W.4 Virendra Lal and P.W.7 Chander Singh and also from the Scientific Report Ex.Ka-29, it has been proved by the prosecution beyond reasonable doubt that the appellant intentionally committed criminal breach of trust by cheating the bank and fabricated false documents in the fake name of Pratap Singh and had taken the guarantee of two persons on the blank papers assuring them that the loan will be repaid and defrauded the bank by putting it to a loss of Rs.3,000/-.

26. In view of the above, it is proved beyond reasonable doubt that the appellant V.K. Bhatnagar has committed the offences punishable under Sections 120-B/420/467/468 r/w Section 471 IPC and u/s 5(2) r/w Section 5(1)(d) of the Prevention of Corruption Act, 1947 and the learned Special Judge, Anti-Corruption, U.P. (East) Dehradun vide his judgment and order dated 1.6.1987 rightly convicted that appellant under the aforesaid sections and also rightly awarded sentence of one year's R.I. u/s 420 IPC and to pay fine of Rs.2,000/- and in default of payment of fine, to undergo one month's simple S.I.; one year's R.I. under each section i.e. u/Ss. 467 and 468 IPC and six months R.I. u/s 5(2) r/w Section 5(1)(d) of the Prevention of Corruption Act, 1947 and fine of Rs.1,000/- and in default of payment of fine, to undergo 15 days simple imprisonment.

27. On the basis of the evidence discussed above, the conviction and sentence awarded to the appellant is correct and justified and I do not find any illegality or irregularity in the aforesaid judgment and order-dated 1.6.1987. Hence, the appeal is devoid of merit and is accordingly dismissed. Interim order dated 17.6.1987 stands vacated.

28. Let the record of the case be sent back to the trial court concerned forthwith for compliance of the order.

(Dharam Veer, J.)

Dated: December 28, 2007

Rajeev Dang